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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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EXAMINER

LEROUX, ETIENNE PIERRE

ART UNIT	PAPER NUMBER
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2171

DATE MAILED: 03/31/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/881,599

Applicant(s)

SOEPENBERG ET AL.

Examiner

Etienne P LeRoux

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-- Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 6-10, 12-16 and 18-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-3, 6-10, 12-16 and 18-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 claims "A transmission system comprising" which indicates that claim 1 is drawn to apparatus. However the new limitation "wherein the file directory modules are comprised in discrete data portions carried in an elementary data stream, with said predetermined grouping formulation for storage being at the module level" is drawn to method. Applicant is requested to revise supra method limitation so that it reads on apparatus.

Claims 2,3, 6-9, 12-15, 18-20 are rejected for being dependent from a rejected base claim.

Claim 22 is similarly confusing. If Applicant is claiming "A transmitter system comprising:" then the claim is directed to apparatus. However, thereafter, claim 22 is a mixture of apparatus and method steps. Correction is requested.

Claims 10 and 16 are rejected for being dependent from a rejected base claim.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-3 are rejected under 35 U.S.C. 102(e) as being anticipated by US Pat No 5,978,855 issued to Metz et al (hereafter Metz '855).

Claim 1:

Metz '855 discloses a transmission system comprising a transmitter and at least one receiver configured to receive signals transmitted therefrom, wherein

- carousel-forming data file and directory objects are sent in cycles with predetermined groups of file and directory objects being formed into respective modules at the transmitter, with each module being transmitted as a whole [col 47, lines 10-24]
- the receiver being arranged to store received file data and directory objects under a predetermined grouping formulation [Fig 6, 122 and col 35, lines 3-22]

Claim 2:

Metz '855 discloses transmitter for use in a system as claimed in claim 1, said transmitter comprising a connection to a source of data for transmission and data formatting means arranged to assemble into modules for transmission file data and directory objects [col 47, lines 10-24].

Claim3:

Metz '855 discloses said receiver comprising means arranged to receive said transmitted modules and to store the file data and directory objects therein according to a predetermined grouping formulation [Fig 6]

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 4, 10 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Metz '855 in view of Pub No US 2001/0022001 issued to Hiroi (hereafter Hiroi '001).

Claims 4, 10 and 16:

Metz '855 discloses the essential elements of claims 1-3 as noted above.

Metz '855 fails to disclose wherein the file and directory modules are comprised in discrete data portions carried in an elementary data stream, with said predetermined grouping formulation for storage being at the elementary level.

Hiroi '001 discloses wherein the file and directory modules are comprised in discrete data portions carried in an elementary data stream, with said predetermined grouping formulation for storage being at the elementary level [Fig 3, 365]

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Metz '855 to include wherein the file and directory modules are comprised in discrete data portions carried in an elementary data stream, with said predetermined grouping formulation for storage being at the elementary level as taught by Hiroi '001.

The ordinarily skilled artisan would have been motivated to modify Metz '855 to incorporate above-noted elements for the purpose of compressing the data streams according to the MPEG2 specification [paragraph 27]

5. Claims 5, 11 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Metz '855 in view of US Pat No 5,235,619 issued to Beyers et al (hereafter Beyers '619).

Claims 5, 11 and 17:

Metz '855 discloses the elements of claims 1-3 as noted above.

Metz '855 fails to disclose wherein the file and directory modules are comprised in discrete data portions carried in an elementary data stream, with said predetermined grouping formulation for storage being at the module level.

Beyers '619 discloses wherein the file and directory modules are comprised in discrete data portions carried in an elementary data stream, with said predetermined grouping formulation for storage being at the module level [col 51, lines 49-61]

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Metz '855 to include wherein the file and directory modules are comprised in discrete data portions carried in an elementary data stream, with said predetermined grouping formulation for storage being at the module level as taught by Beyers '619.

The ordinarily skilled artisan would have been motivated to modify Metz '855 to include supra elements for the purpose of storing Category 1 frequencies [col 19, lines 47-63]

6. Claims 6, 12 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Metz '855 in view of Pub No US 2002/0091816 issued to Stalker (hereafter Stalker '816).

Claims 6, 12 and 18:

Metz '855 discloses the elements of claims 1-3 as noted above.

Metz '855 fails to disclose wherein the data including file and directory modules further comprises a version indicator to identify updates, with said modules further comprising discrete data portions carried in an elementary data stream, with said predetermined grouping formulation for storage being at the elementary level.

Stalker '816 discloses wherein the data including file and directory modules further comprises a version indicator to identify updates, with said modules further comprising discrete data portions carried in an elementary data stream, with said predetermined grouping formulation for storage being at the elementary level [paragraph 20].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Metz '855 to include wherein the data including file and directory modules further comprises a version indicator to identify updates, with said modules further comprising discrete data portions carried in an elementary data stream, with said predetermined grouping formulation for storage being at the elementary level as taught by Stalker '816.

The ordinarily skilled artisan would have been motivated to modify Metz '855 to include supra elements for the purpose of determining the current status of the data for synchronizing purposes.

7. Claims 7-9, 13-15 and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Metz '855 in view of Pub No US 2002/0188950 issued to Soloff et al (hereafter Soloff '950).

Claims 7, 13 and 19:

Metz '855 discloses the elements of claims 1-3 as noted above.

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Metz '855 fails to disclose wherein the file and directory modules are linked to time stamp data, with the transmitter being configured to include such time stamp data and the receiver component being arranged to recover such time stamps and utilize them in the reproduction from storage of the carousel.

Soloff '950 discloses wherein the file and directory modules are linked to time stamp data, with the transmitter being configured to include such time stamp data and the receiver component being arranged to recover such time stamps and utilize them in the reproduction from storage of the carousel [paragraph 67]

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Metz '855 to include wherein the file and directory modules are linked to time stamp data, with the transmitter being configured to include such time stamp data and the receiver component being arranged to recover such time stamps and utilize them in the reproduction from storage of the carousel as taught by Soloff '950.

The ordinarily skilled artisan would have been motivated to modify Metz '855 to include supra elements for the purpose of determining if a file has been received at a particular point in time [paragraph 67]

Claims 8, 14 and 20:

Metz '855 discloses the elements of claims 1-3 as noted above.

Metz '855 fails to disclose wherein the reproduction from storage of the carousel is performed at data rates other than that indicated by said time stamps.

Soloff '950 discloses a date and a time stamp [col 67].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Metz '855 and Soloff '950 to include wherein the reproduction from storage of the carousel is performed at data rates other than that indicated by said time stamps.

The ordinarily skilled artisan would have been motivated to modify the combination of Metz '855 and Soloff '950 to include supra elements for the purpose of gathering data on a continuous basis throughout the day.

Claims 9, 15 and 20:

Metz '855 discloses the elements of claims 1-3 as noted above.

Metz '855 fails to disclose wherein the reproduction from storage of the carousel is performed at data rates greater than that indicated by said time stamps by reproducing carousel data at a data rate indicated by time stamp data and selectively interposing additional copies of reproduced carousel file and directory objects with said originally reproduced copies.

Soloff '950 discloses a date and a time stamp [col 67].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Metz '855 and Soloff '950 to include wherein the reproduction from storage of the carousel is performed at data rates greater than that indicated by said time stamps by reproducing carousel data at a data rate indicated by time stamp data and selectively interposing additional copies of reproduced carousel file and directory objects with said originally reproduced copies.

The ordinarily skilled artisan would have been motivated to modify the combination of Metz '855 and Soloff '950 to include supra elements for the purpose of gathering data on a continuous basis throughout the day.

Response to Arguments

Applicant's arguments filed 12/29/2003 have been fully considered but they are not persuasive.

First Applicant Argument:

Applicant states in the third paragraph on page 9 "Claims 1-3 now include the limitations of original claim 5, which, as item 5 of the Office Action acknowledges, Metz fails to disclose or suggest."

First Applicant Response:

Examiner is not persuaded.

Firstly, examiner maintains that claim 1 appears to be directed to apparatus per the preamble of claim 1 which includes "transmission system comprising a transmitter and at least one receiver configured to receive signals therefrom." However, Applicant has amended claim 1 to include the following method step "wherein the file and directory modules are comprised in discrete data portions carried in an elementary data stream, with said predetermined grouping formulation for storage being at the module level." It is now unclear whether claim 1 is directed to apparatus or method.

Secondly, the limitation "wherein the file and directory modules are comprised in discrete data portions carried in an elementary data stream, with said predetermined grouping

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formulation for storage being at the module level” is included by Applicant as admitted prior art on Page 2, lines 10-18 of the specification. For the reader’s convenience, above referenced section of the specification is given below:

Such a module is a container of objects and comprises a number of DownloadDataBlock messages (which are specified in the MPEG-2 standard as private sections). When a set-top box wants to pre-fetch a DSM-CC object, it must (amongst other things) know in which module the object resides. After it has retrieved the right module, the set-top box must then parse the module to get to the object itself. Due to the hierarchical nature of the DSM-CC object carousel an object might be included in a subdirectory. If this is the case, the set-top box must also retrieve the module(s) with the intermediate directories, and parse them before it gets to the object in which it is interested.”

Examiner maintains, that above limitation even if rewritten in the form of apparatus does not distinguish instant invention over the prior art of record.

Further Examiner Response:

Examiner notes that Applicant fails to point out how new claim 22 distinguishes over the cited prior art and Applicant’s admitted prior art. Therefore, examiner concludes, that even if Applicant overcomes the rejection under the second paragraph of 35 U.S.C. 112, claim 22 would be rejected under 35 U.S.C. 103(a) as being unpatentable over Metz in view of Applicant’s admitted prior art.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Etienne LeRoux whose telephone number is (703) 305-0620. The examiner can normally be reached on Monday – Friday from 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic, can be reached on (703) 308-1436.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Etienne LeRoux

3/26/2004 


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